

Fiduciary in comparative context

Abstract

In this doctor thesis, the author is focused on explaining the historical context of the trust institute development, followed by comparison between jurisdiction in England, Lichtenstein, France, Germany and the Czech Republic. The author also points out differences between traditional common law and continental law systems. Even though the differences between local systems are quite significant, the trust system is gaining popularity across the countries for its flexibility of asset management.

Just as the Quebec trust was inspired over time by the adjustment of the trust according to *common law*, the Czech legislator should proceed to amend the individual provisions of the trust fund so that its usability is as wide as possible.

A different way from traditional common law has emerged in Germany, where Treuhand was created with German law leaving a wide margin of discretion and the codified part is a minority, as is the case with the French fiduciary.

The great differences between the national regulations of trusts or trust-like institutes necessarily lead to the question of whether it is not appropriate to make certain legislative improvements. It is the comparison and knowledge of the most effective and flexible methods that allows us to make a correct and qualified decision on the further development of such a strategic institute as the trust fund for asset management. The Czech Republic needs such knowledge and professional debate, so the aim of this work is to point out some areas of possible adjustments and acquaint the reader with a possible solution.

The part focused on Czech trust system analyses the taxation impacts as a crucial elements for business founders' decision making whether to establish and use this system or not. To settle a trust is not just a practical solution but also a rational way of organizing founder's property. Through an example of Anglo-Saxon trust, the author also points out number of *de lege ferenda* challenges, that Czech trusts will have to face in the future.

Klíčová slova: Trust, Fiduciary, Settlor, Trustee, Beneficiary